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REMARKS

The Examiner has taken the position that the claims of the instant invention are directed to patentably distinct inventions such that the claims 1-5 and 8 (Invention I), are drawn to a particular *E. coli* strain, classified in Class 435, subclass 252.33. Claims 6-7 (Invention II) are said to be drawn to a method for the bioproduction of 1,3-propanediol comprising contacting recombinant *E. coli* with a suitable carbon substrate, classified in Class 435 subclass 158.

Applicants elect to prosecute Invention I, claims 1-5 and 8, as amended herein. Support for the amendment to claim 8 can be found throughout the specification and examples, and specifically on page 33, which describes 1.5 long GI and 1.6 long GI promoters. Further, page 5, lines 14-17, refer to 10/420587 (2003) (US 60/374931 (2002)DuPont)) which discloses vectors and plasmids useful for the production of 1,3-propanediol, which is specifically incorporated by reference. Said incorporated application describes 1.5 long GI and 1.6 long GI promoters. Thus, no new matter is added by way of this amendment. As such, Applicants respectfully request that the amendment be entered.

The Examiner also required an election of a nucleic acid sequence from SEQ ID NOs: 65, 66, 67 and 68. Applicants elect with traverse SEQ ID No:68. In view of the Amendments made herein, Applicants assert that said restriction is rendered moot, however, in the event that the amendment is not entered, Applicants provide the following remarks. The Examiner proposes that the nucleic acids of Group (A)-(D) (SEQ ID NO: 65-68) are unrelated. The Examiner states the criteria for being unrelated as "Inventions are unrelated if it can be shown that they are not disclosed as capable of use together AND [*my emphasis*] they have different modes of operation, different functions, or different effects". Applications submit that the INVENTIONS HAVE IDENTICAL MODES OF OPERATION, FUNCTION, AND EFFECT; thus, the inventions have not met the FULL criteria for being considered unrelated.

Group (A)-(D) (SEQ ID NOs: 65-68) are plasmids with > 95% sequence identity, identical mode of operation (gene expression from an identical plasmid origin

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of replication), identical function (expression of glycerol-3-phosphate dehydrogenase, glycerol-3- phosphatase, dehydratase and dehydratase reactivation factor activities), and identical effect (allows the production of 1,3-propanediol). For the essential, qualitative features of Group (A)-(D) (SEQ ID NO: 65-68), the plasmids cannot be distinguished through hybridization, expression or antibody binding. The plasmids differ only in 1.) orientation of genes encoding glycerol-3-phosphate dehydrogenase and glycerol-3- phosphatase- the gene sequences are identical, 2.) alternate promoter strength controlling dehydratase expression, and 3.) the optional presence of orfW, a small open reading frame of unknown function. Thus, the sequences should be examined together, and such examination would not be an undue burden on the Examiner. As such we ask that the requirement for election of a sequence be withdrawn.

Further, the Examiner has required an election of a species from the following group: ptsH gene, ptsI gene, crr gene, arcA gene, ppc gene, btuR gene, yqhD gene, mgsA gene, ackA gene, pta gene, aldA gene, aldB gene, edd gene, glpK gene, and gldA gene. Applicants elect with traverse arcA gene. The Examiner states the criteria for being unrelated as "Inventions are unrelated if it can be shown that they are not disclosed as capable of use together AND [*emphasis added*] they have different modes of operation, different functions, or different effects".

Requirement for the election of one of the group above is improper because the inventions are disclosed as being capable of use together. Claims 2-5 comprises one or more of the genes above. Examination of the claims without restriction to one member of the group above would not pose a burden on the Examiner and as such, the requirement for election of a species should be withdrawn.

In the event that the restriction requirement is maintained in this application and nonelected process claims are withdrawn from consideration, Applicants request treatment of nonelected process claims be rejoined as set forth MPEP § 821.04 Upon a determination that a product claim is allowable, Applicants request rejoinder of nonelected process claims and examination of such claims on the merits in the above-referenced application.

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Further, Applicants seek herein to amend the specification to delete an error in a defined term. We ask that this error be corrected as listed above and that the amendment be entered. No new matter is introduced by said amendment to the specification.

Conclusion

Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. Therefore, allowance of the above-referenced application is respectfully requested. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Respectfully submitted,



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